

21 C.J.S. Courts § 99

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

J. Objections to Jurisdiction; Estoppel or Waiver of Objections

§ 99. Estoppel to deny or object to subject matter or personal jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  37(3)

One who invokes or consents to a court's acts in excess of its jurisdiction may be estopped to question it provided the court did not lack subject matter jurisdiction.

Generally, subject matter jurisdiction is not conferred on a court by estoppel,¹ and the doctrine of estoppel to contest jurisdiction does not apply when the court lacks subject matter jurisdiction, but when a court has subject matter jurisdiction over an action, a party who seeks or consents to action beyond the court's power as defined by statute or decisional rule may be estopped to complain of the ensuing action in excess of jurisdiction even if there is no reliance or ignorance by the party seeking to assert estoppel.² Thus, when a court has fundamental jurisdiction but acts in excess of its jurisdiction, its act or judgment is merely voidable and is valid until it is set aside, and a party may be precluded from setting it aside by estoppel.³ A litigant who has stipulated to a procedure in excess of the court's jurisdiction may be estopped to question it when to hold otherwise would permit the parties to trifle with the courts.⁴

The doctrine of estoppel to contest acts in excess of subject matter jurisdiction does not require reliance or ignorance by the party seeking to assert estoppel and does not require the party know or understand the legal consequences of its action.⁵ Whether a party who seeks or consents to action beyond the court's power as defined by statute or decisional rule will be estopped to complain of the ensuing action in excess of jurisdiction depends on the importance of the irregularity not only to the parties but to the functioning of the courts and in some instances on other considerations of public policy.⁶

A spouse was estopped from objecting to a state court's exercise of concurrent subject matter jurisdiction over a divorce proceeding where the spouse participated in its proceedings without objection for a year with the reliance of the opposing spouse.⁷

Estoppel for the purpose of challenging the court's personal jurisdiction may arise when a party voluntarily avails itself of the court's jurisdiction or seeks the court's jurisdiction.⁸ The question of the preservation of a personal jurisdiction defense by one raising a counterclaim, under principles of issue preclusion by collateral estoppel, must be determined on the basis of whether the counterclaim is related to the original proceeding such that it must be raised.⁹

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Footnotes

- 1 § 71.
- 2 Cal.—*Garibotti v. Hinkle*, 243 Cal. App. 4th 470, 197 Cal. Rptr. 3d 61 (4th Dist. 2015).
- 3 Cal.—*Garibotti v. Hinkle*, 243 Cal. App. 4th 470, 197 Cal. Rptr. 3d 61 (4th Dist. 2015).
- 4 Cal.—*In re K.C.*, 220 Cal. App. 4th 465, 163 Cal. Rptr. 3d 177 (3d Dist. 2013), review denied, (Jan. 21, 2014).
- 5 Cal.—*Mt. Holyoke Homes, LP v. California Coastal Com'n*, 167 Cal. App. 4th 830, 84 Cal. Rptr. 3d 452 (2d Dist. 2008), as modified on other grounds on denial of reh'g, (Nov. 12, 2008).
- 6 Cal.—*Mt. Holyoke Homes, LP v. California Coastal Com'n*, 167 Cal. App. 4th 830, 84 Cal. Rptr. 3d 452 (2d Dist. 2008), as modified on other grounds on denial of reh'g, (Nov. 12, 2008).
- 7 Ind.—*Kelly v. Kelly*, 2008 WL 7904116 (Stand R Sioux Trib Ct 2008).
- 8 Ind.—*Maust v. Estate of Bair ex rel. Bair*, 859 N.E.2d 779 (Ind. Ct. App. 2007).
- 9 N.Y.—*150 West End Owners Corp. v. Chestnut Holdings of N.Y. Inc.*, 49 Misc. 3d 1147, 17 N.Y.S.3d 831 (N.Y. City Civ. Ct. 2015).

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